

REMARKS

Claims 19-45 are now pending in the application. Claims 19-37 were previously entered while claims 38-45 are new. Claims 19 and 30 have been rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by U.S. Patent 6,641,553 to Chee et al. while claims 20-29 and 31-37 have been rejected under 35 U.S.C. § 103(a) as being allegedly obvious over Chee et al.

Chee is entitled “Devices and Methods for Delivering a Drug.” It regards a “needless delivery of selected agents to target tissues within a subject body by providing the agents in one or more high energy jets of streams directed against selected wall or surface regions of such tissues.” See Chee Abstract. Chee illustrates placing a blunt wafer having one or more orifices in it, at the distal end a catheter, thereby elevating the pressure of any liquid exiting the catheter. See, e.g., Chee, col. 1 ln. 66- col. 2 ln. 14; col. 4 lns. 15-22. The cross-sectional profile of the orifices in this wafer is many times smaller than the cross-sectional profile of the lumen in the catheter carrying the fluid. See, e.g., Chee at claims 2 and 8. Thus, the radical reduction in size of the channel in which the fluid is flowing drastically increases the pressure of the liquid in Chee so that fluid exiting the orifices of the wafer is sufficient to pierce tissue.

Claim 19 differs from Chee at least because it recites “generating a high transient pressure in the fluid at the pressurized fluid source, the high transient pressure sufficient to pierce bodily tissue,” wherein the fluid source is coupled to the proximal region of the catheter. The fluid source in Chee is not described as generating such pressures, rather, in Chee, the pressure in the fluid, which is 300 psi near the pressure source, is stepped up to the point of being able to pierce tissue only after it is forced through the orifices of the wafer. Thus, Chee does not render claim 19 unpatentable.

Claim 30 is patentable over Chee for at least this same reason.

Claim 29, which recites the step of “penetrating a surface of the tissue with the injection port,” is patentable over Chee because nowhere in Chee does the catheter itself penetrate the tissue. Rather, as shown in figures 4 and 5 of Chee the catheter is simply adjacent to it. Claim 38 is patentable over Chee for a similar reason.

Claim 41 is patentable over Chee for at least reciting “activating a vacuum force,” while claims 44 and 45 are patentable over Chee for reciting enlarged or reduced cross-sectional areas

Serial No: 10/006,651

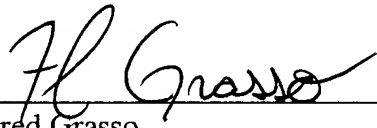
of the catheter lumen. By comparison, in Chee, the lumen is described as having a uniform cross-sectional area.

CONCLUSION

For at least the reasons described above, all of the pending claims are patentable over the cited reference.

The Commissioner is authorized to charge any fees due under 37 C.F.R. §§ 1.16 or 1.17, or credit any overpayments, to deposit account no. 11-0600. Should the Examiner have any questions, he is invited to call the undersigned at 202-220-4200.

Respectfully submitted,



Fred Grasso
Reg. No. 43,644

Date: June 14, 2004

KENYON & KENYON
1500 K Street, N.W., Suite 700
Washington, D.C. 20005
Tel: (202) 220-4200
Fax: (202) 220-4201
FTG/bep